

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tim Markbreiter	Team: Squad #07	CCRB Case #: 202208107	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Friday, 12/02/2022 8:00 PM, Saturday, 12/03/2022 2:00 AM	Location of Incident: 1293 Broadway (between West 33rd Street and West 34th Street) and 14 Precinct stationhouse	18 Mo. SOL 6/2/2024	Precinct: 14
Date/Time CV Reported Mon, 12/05/2022 3:01 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/05/2022 3:01 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Albert Belcher	01996	950064	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Brittany Shaneberger	24317	972249	MTS PCT
2. PO Jason Ortiz	09729	974406	013 PCT
3. PO Keith Spadaro	17080	974566	MTN PCT
4. PO Justin McLaurin	03416	971141	MTS PCT
5. SGT Jared Fox	04763	947000	IAB
6. PO David Sager	30624	974502	MTS PCT
7. PO Vince London	12864	974281	MTS PCT
8. PO Ryan Vogt	02061	974637	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Albert Belcher	Discourtesy: On December 02, 2022, at 1293 Broadway in Manhattan, Police Officer Albert Belcher spoke discourteously to § 87(2)(b)	
B . PO Albert Belcher	Force: On December 02, 2022, at 1293 Broadway in Manhattan, Police Officer Albert Belcher used physical force against § 87(2)(b)	
C . PO Albert Belcher	Discourtesy: On December 03, 2022, at 357 West 35th Street in Manhattan, Police Officer Albert Belcher spoke discourteously to § 87(2)(b)	

Case Summary

On December 5th, 2022, § 87(2)(b) filed this complaint via phone directly with the CCRB. (BR 1).

On December 2nd, 2022, § 87(2)(b) was driving on West 32nd Street 6th Avenue in Manhattan when § 87(2)(b) biked into § 87(2)(b)'s vehicle with an electric Citi Bike. § 87(2)(b) then biked away and while at a red light at 33rd Street, § 87(2)(b) stopped § 87(2)(b) held his bike, and called 911. PO Albert London and PO Ryan Vogt (14th Precinct) were the first officers who arrived at the scene followed by PO Albert Belcher and his partner Justin McLaurin (14th Precinct). After PO Belcher spoke with § 87(2)(b) he tried to talk to § 87(2)(b) about what had happened. § 87(2)(b) felt that PO Belcher was not listening to his side of the story and requested a supervisor to come to the scene. While § 87(2)(b) was trying to talk to PO Belcher, PO Belcher said “get your fucking hands out of my face” (**Allegation A: Discourtesy**, § 87(2)(g)). PO Belcher then spoke to his supervisor on the phone and after speaking with his supervisor, he approached § 87(2)(b) handcuffed him, and allegedly twisted § 87(2)(b)'s arm (**Allegation B: Force**, § 87(2)(g)). § 87(2)(b) was then taken to the Midtown South Stationhouse and was released at 2 a.m. on December 3rd, with all charges being dropped. As § 87(2)(b) was leaving the precinct, PO Belcher allegedly said to § 87(2)(b) “Next time keep your fucking hands to yourself” (**Allegation C: Discourtesy**, § 87(2)(g)).

The investigation received 10 body-worn camera videos (BWC) and five stationhouse security camera videos from the NYPD (BR 2) (BR 3).

Findings and Recommendations

Allegation (A) Discourtesy: On December 02, 2022, at 1293 Broadway in Manhattan, Police Officer Albert Belcher spoke discourteously to § 87(2)(b)

On Friday, December 2, 2022, at 8:00 p.m., § 87(2)(b) was driving a black 2022 Cadillac Escalade, which was his boss's vehicle, and was dropping off his bosses' kids at Madison Square Garden. § 87(2)(b) drove around the area near Madison Square Garden for about an hour, which was very congested at the time and while § 87(2)(b) was driving on 6th Avenue heading northbound, he heard a loud bang from his car. This prompted § 87(2)(b) to park the car, exit the vehicle, and assess the situation. Once § 87(2)(b) exited his vehicle, he was notified by nearby pedestrians that an electric Citi Bike had struck his car and caused damage to it. § 87(2)(b) believed that the biker, identified as § 87(2)(b) § 87(2)(b) was upset that his car had slightly been in the bike lane, but § 87(2)(b) noted that he was not blocking the entire bike lane and that the biker could have easily avoided his car.

§ 87(2)(b) then proceeded to hold the bike, hold § 87(2)(b) § 87(2)(b) and called 911 to have the police assess the situation. § 87(2)(b) asked § 87(2)(b) what the point of hitting him was and § 87(2)(b) just laughed at § 87(2)(b). Two police officers, PO Albert London and PO Ryan Vogt (14th Precinct) arrived at the scene a few minutes after the incident and tried to help § 87(2)(b). About five minutes later, PO Albert Becher and PO Justin McLaurin (14th Precinct) arrived at the scene and proceeded to take over the situation. § 87(2)(b) alleged that PO Belcher was being nasty, screamed at § 87(2)(b) and told him “Shut up, I'll tell you when to talk.” Every time § 87(2)(b) attempted to get a word in, PO Belcher would interrupt him. While trying to explain the situation to PO Belcher, § 87(2)(b) pointed to where he parked his car which prompted PO Belcher to say, “Get your fucking hands out of my face.” PO Belcher said to § 87(2)(b) “I'm going to take over and do what I need to do, you are going to get arrested.” This prompted § 87(2)(b) to request PO

Belcher's supervisor and PO Belcher allegedly declined to provide § 87(2)(b) with his supervisor (BR 4).

§ 87(2)(b) was contacted by the CCRB and asked to provide a statement in relation to this incident. § 87(2)(b) did not want to give a statement § 87(2)(b)

(BR 5).

In PO Vogt's BWC, once PO Vogt and PO London arrived at the scene, at 1:18 § 87(2)(b) says that he stopped the biker that hit him, and the biker responds saying "you literally grabbed me off the bike and pulled me down to the ground." As more officers arrived on scene, at 3:40, § 87(2)(b) explains to the officers on scene that he came up to the biker and stopped him, which prompted the biker to yell "help me, help me." § 87(2)(b) held the bike, did not let go, called 911, and waited for the police to arrive. While § 87(2)(b) spoke to PO Vogt, PO Belcher arrived on the scene and shortly after he arrived, PO Belcher spoke with § 87(2)(b) (BR 6).

In PO Belcher's BWC, § 87(2)(b) tells PO Belcher that as he was biking on 33rd Street, § 87(2)(b) made a sharp left turn into the bike lane which caused § 87(2)(b) to frantically stop his bike. As § 87(2)(b) stopped his bike, he put his hands on § 87(2)(b)'s car and then continued to bike. § 87(2)(b) then stopped at the next red light and while there, § 87(2)(b) stopped § 87(2)(b) pulled him from his left arm, and began to yank him, which forced § 87(2)(b) off his bike. PO Belcher then asked § 87(2)(b) if he was hurt, and § 87(2)(b) said that he was physically fine but was mentally scarred. § 87(2)(b) added that his arm was hurting a little bit. At 1:50, PO Belcher asked § 87(2)(b) if he would like § 87(2)(b) arrested and § 87(2)(b) said that he did not want him arrested and wanted an apology from § 87(2)(b). At 2:18, PO Belcher approached § 87(2)(b) who was still standing with PO Vogt and PO London, and questioned how § 87(2)(b) got from 32nd Street to 33rd Street. § 87(2)(b) continued to insist that § 87(2)(b) had hit his car for no reason (BR 7).

At 6:10 of PO Vogt's BWC, PO Belcher tells § 87(2)(b) that § 87(2)(b) does not want to press charges against him. § 87(2)(b) then attempts to interject, and PO Belcher says "listen, I'm speaking now." PO Belcher explains that he is getting two different stories from § 87(2)(b) and § 87(2)(b) and § 87(2)(b) again tried to interject and PO Belcher says, "I'm talking, let me talk." As PO Belcher continues to question § 87(2)(b)'s recollection of events, at 7:04 of PO Vogt's BWC, he asks if there was an actual accident or if § 87(2)(b) just tapped his car. PO Belcher then waits for § 87(2)(b) to respond, and § 87(2)(b) says, "you told me to stop talking." At 7:24 of PO Vogt's BWC, § 87(2)(b) requests for PO Belcher's supervisor and PO Belcher tells § 87(2)(b) that if he calls his supervisor, it will most likely lead to § 87(2)(b)'s arrest (BR 6). This conversation continues on PO Belcher's BWC, with § 87(2)(b) telling PO Belcher at 5:55 that it appears as if he was taking § 87(2)(b) side and PO Belcher repeatedly tells § 87(2)(b) to stop talking. § 87(2)(b) then says, "but he is the one who assaulted me" and § 87(2)(b) appears to point towards something. In response to this, at 6:13, PO Belcher says to § 87(2)(b) "put your hands out of my fucking face." § 87(2)(b) then asks again for PO Belcher's supervisor and PO Belcher tells § 87(2)(b) "You're getting locked up today." At 6:53 of his BWC, PO Belcher proceeds to call his supervisor, Sgt. Rios, and the first thing PO Belcher says is "hey, I think he is going to be under. It's a dispute with a cyclist and a motorist. The motorist parked his vehicle on 33rd street, walked up to 6th avenue, pulled the guy off his bike, and he says that there's soreness to his arm." PO Belcher then says to Sgt. Rios that while driving, § 87(2)(b) cut off the cyclist and that despite his efforts to guide § 87(2)(b) in the right direction, § 87(2)(b) decided to act disorderly with him. Sgt. Rios then directs PO Belcher to arrest § 87(2)(b) and at 8:59 of his BWC, PO Belcher approaches § 87(2)(b) from behind and handcuffs him (BR 7). After § 87(2)(b) is handcuffed, PO Belcher's partner, PO Justin McLaurin, approaches § 87(2)(b) and at 10:50 of PO McLaurin's BWC, § 87(2)(b) lifts up his arm sleeve and points to where § 87(2)(b) grabbed him. § 87(2)(b) then says, "it's this, but that's not really anything." At 11:14, PO McLaurin asks § 87(2)(b) if he has pain and § 87(2)(b) says that it is nothing (BR 8). A screenshot of § 87(2)(b) arm where § 87(2)(b) grabbed him is attached to IA #72 (BR 9).

PO London stated that he and his partner PO Vogt were on patrol when they saw § 87(2)(b) and § 87(2)(b) on the ground, and they approached the scene. After PO London confirmed that everyone on the scene was okay, PO Belcher arrived on the scene and assumed control because PO London was still a fairly new officer. Shortly after PO Belcher's arrival, things escalated between § 87(2)(b) and PO Belcher, which prompted PO London to try and deescalate the situation. § 87(2)(b) raised his voice with PO Belcher and was using hand gestures. PO Belcher then told § 87(2)(b) to get his "fucking" hands out of his face. PO London confirmed that § 87(2)(b)'s hands were in PO Belcher's personal space. As PO Belcher and § 87(2)(b) continued to go back and forth, § 87(2)(b) requested to speak with PO Belcher's supervisor and PO Belcher said that if he were to call his supervisor, § 87(2)(b) would be arrested. PO Belcher then stepped away to call his supervisor and PO London spoke with § 87(2)(b) and told him that there was not much the police could do if there was no observable damage to the vehicle. PO London said he did not observe § 87(2)(b) do anything that could have led to his arrest (**BR 10**).

PO Belcher testified that when he first arrived at the scene, § 87(2)(b) was acting irate, was being hostile, and was making large gestures with his body. After PO Belcher obtained statements from both § 87(2)(b) and § 87(2)(b), he was of the belief that § 87(2)(b) was at fault in the situation and ascertained that § 87(2)(b) had been a victim of a crime. PO Belcher stated that § 87(2)(b) could have been arrested for assault since he grabbed § 87(2)(b) off his bike and then held him, which placed § 87(2)(b) in reasonable fear. PO Belcher did not want to arrest § 87(2)(b) at this point, and he wanted to just diffuse the situation. As PO Belcher questioned § 87(2)(b)'s recollection of the events, § 87(2)(b) became increasingly irate with PO § 87(2)(b) and accused him of taking sides with § 87(2)(b). PO Belcher noted that § 87(2)(b) was making large gestures with his hands, was putting his hand in PO Belcher's face, and at one point stood only two feet from PO Belcher. After the back and forth continued between § 87(2)(b) and PO Belcher, PO Belcher tried to give § 87(2)(b) a verbal warning to stop and listen to what he was saying and admittedly told § 87(2)(b) to get his "fucking" hands out of his face. PO Belcher specifically used the word "fucking" as a verbal tactic to assume control of the situation. PO Belcher then told § 87(2)(b) to go on his way and tried to end the back and forth (**BR 11**).

§ 87(2)(b) then requested to speak with PO Belcher's supervisor and in another attempt to diffuse the situation, PO Belcher told § 87(2)(b) that he would most likely be arrested if his supervisor came and § 87(2)(b) said that he did not care. PO Belcher did not recall telling § 87(2)(b) that he guaranteed he would be arrested if his supervisor arrived however, after being shown his BWC from 3:56 to 5:41, PO Belcher confirmed that he did say he would guarantee that § 87(2)(b) would be arrested. When asked why he said this, PO Belcher said § 87(2)(b) admitted to committing a crime and that he was acting disorderly. PO Belcher was also shown his BWC footage from 5:41 to 5:56 in which he can be heard telling § 87(2)(b) to stop talking. PO Belcher explained that § 87(2)(b) was getting increasingly frustrated, moving his hands around a lot, and started moving closer to PO Belcher, which prompted PO Belcher to take a step back. After investigators played the video for PO Belcher a second time, he amended his statement and said that it was not he who stepped back, but actually § 87(2)(b) who had in fact stepped back. At this point, PO Belcher had not considered § 87(2)(b) under arrest. (**BR 11**).

Once § 87(2)(b) requested PO Belcher's supervisor, from 6:16 to 6:27 of his BWC, PO Belcher noted that he told § 87(2)(b) that he was trying to "squash" the situation, meaning that he wanted to let everyone go home. PO Belcher said that once his supervisor got involved, § 87(2)(b) would be arrested for assaulting § 87(2)(b) and for acting disorderly and he added that at his precinct under the commanding officer, there was a zero-tolerance policy. If PO Belcher were to have let § 87(2)(b) walk, he would have put himself at risk with his supervisor. PO Belcher said that Sgt. Rios instructed him to arrest § 87(2)(b) after learning what had happened on scene. PO Belcher did not consider § 87(2)(b) under arrest until his supervisor instructed him to arrest § 87(2)(b). Upon review of PO Belcher's entries in his memo book from this incident, PO Belcher explained to the CCRB that § 87(2)(b) was charged § 87(2)(a) 160.50.

§ 87(2)(a) 160.50 PO Belcher did not know why the charges against § 87(2)(b) were eventually dropped and he noted that this was not a usual occurrence. According to NYPD Patrol Procedure 200-02, entitled Mission, Vision, and Values of the New York City Police Department, members of service must maintain a higher standard of integrity than is generally expected of others because so much is expected of them. Members of Service must Value human life, respect the dignity of each individual and render their services with courtesy and civility (BR 12).

In Case 2015-15012, The NYPD Assistant Deputy Commissioner of Trials, Paul M. Gamble, ruled that when an officer made discourteous statements that served no purpose but to belittle a civilian's request, the officers' actions were improper (BR 13).

Both § 87(2)(b)'s statement and PO Belcher's BWC show that PO Belcher was trying to talk with § 87(2)(b) about what happened, and that § 87(2)(b) was frustrated because he felt that he was a victim, and that PO Belcher was not listening to his side of the story. § 87(2)(b) was using his hands to try to explain what happened to him when PO Belcher said, "get your hands out of my fucking face." His BWC does not show this to be a threatening gesture. § 87(2)(b), § 87(2)(g)

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Allegation (B) Force: On December 02, 2022, at 1293 Broadway in Manhattan, Police Officer Albert Belcher used physical force against § 87(2)(b)

As PO Belcher placed § 87(2)(b) in handcuffs, PO Belcher allegedly pushed § 87(2)(b)'s arms and he asked PO Belcher to go easy because his shoulder was hurt. In response to this, PO Belcher allegedly twisted § 87(2)(b)'s arms. § 87(2)(b) did not resist while PO Belcher handcuffed him and when § 87(2)(b) asked PO Belcher what he would be charged with, PO Belcher declined to explain what he would be charged with. Although § 87(2)(b) never requested medical attention, he allegedly informed PO Belcher multiple times that he was in pain (BR 4).

In PO Vogt's BWC, at 10:43, PO Belcher approaches § 87(2)(b) from behind and handcuffs him. At no point during the handcuffing was there any struggle and § 87(2)(b) complies with the officers' requests. PO Belcher does not seem to twist § 87(2)(b)'s arm and § 87(2)(b) does not complain of any pain while he was being handcuffed. At 11:36 of PO McLaurin's BWC, § 87(2)(b) does tell PO McLaurin that the handcuffs are tight, and PO McLaurin says that he cannot loosen § 87(2)(b)'s handcuffs at this time. Although PO Belcher is standing behind § 87(2)(b) it is unclear if he heard this request. PO Belcher testified that he did not recall § 87(2)(b) complaining of arm pain and said that once § 87(2)(b) was handcuffed, he was compliant (BR 8) (BR 11).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (C) Discourtesy: On December 03, 2022, at 357 West 35th Street in Manhattan, Police Officer Albert Belcher spoke discourteously to § 87(2)(b)

§ 87(2)(b) was then taken to the Midtown South Precinct and was placed in a holding cell. § 87(2)(b) was released from the precinct by 2:00 a.m. and while he was exiting the precinct, PO Belcher walked shoulder to shoulder with him. PO Belcher then allegedly told § 87(2)(b) "Next time keep your fucking hands to yourself." § 87(2)(b) stayed quiet because he did not want to get into an altercation with PO Belcher and then left precinct (BR 4). Upon review of stationhouse footage from 1st Floor Desk, the fingerprinting entrance, and the 1st floor hallway to cell, PO Belcher does walk

§ 87(2)(b) out of the precinct once he is released. While it does appear that PO Belcher and § 87(2)(b) converse, because there is no audio in the footage it is unclear what § 87(2)(b) and PO Belcher specifically discussed (**BR 4**).

PO Belcher recalled that his last interaction with § 87(2)(b) occurred when § 87(2)(b) was getting released from the holding cell. PO Belcher vehemently denied telling § 87(2)(b) at the precinct when he was released “next time, keep your fucking hands to yourself” (**BR 11**). After being shown stationhouse footage, PO Belcher said that the only conversation that he had was with the desk confirming that § 87(2)(b) was free to leave the precinct. PO Belcher added that § 87(2)(b) asked him about his car and PO Belcher told him to ask his friend. PO Belcher denied using any profanities during this interaction (**BR 11**).

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one other CCRB complaint and has been named as a victim in one allegation (**BR 14**):
 - § 87(2)(b)
- PO Albert Belcher has been a member of service for 11 years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming Emotional Distress, Physical Pain/Injury, Shock and Trauma, Loss of Liberty, Loss of Dignity, Irreparable Harm to Reputation, Loss of Earnings/Potential Earnings, Punitive, Consequential, Compensatory, Pecuniary, Special, Psychological/ Mental, Statutory, Treble, and Costs and Attorney’s Fee and seeking \$1,000,000 as redress. There is no 50H hearing scheduled (**BR 16**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 7

Investigator:	<u>Tim Markbreiter</u>	<u>Inv. Tim Markbreiter</u>	<u>4/19/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:		Manager Vanessa Rosen	July 13, 2023
Signature		Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date